

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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2006 OCT -5 A 10:17
U.S. DISTRICT COURT
DISTRICT OF MASS.

DONALD C. HUTCHINS

Plaintiff

vi.

CARDIAC SCIENCE, INC., et al;

Defendants

Civil Action: **04-30126-MAP**

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR
DECLARATORY JUDGMENT ASSERTING PLAINTIFF'S CONTINUED
OWNERSHIP OF HIS INTELLECTUAL PROPERTIES**

SUMMARY OF POSITION

Actual and justifiable confusion exists between large defibrillator manufacturers such as Zoll, Cardiac Science, Phillips, Medtronic, Complient and Aristotle with regard to the ownership of cardiopulmonary resuscitation ("CPR") prompting patents, copyrights and trademarks listed by the Patent Office and Library of Congress as the property of the Plaintiff, Donald C. Hutchins ("Hutchins"). This confusion is magnified by the cross-license of one of Hutchins' patents with William Parker. Certain of Hutchins' properties are at issue in this action in terms of a license agreement or contract but the status of Hutchins' ownership has never been questioned.

A declaration is therefore necessary and appropriate under these circumstances to remove confusion in the AED and CPR industries and to assure that judgments by this Court are not misconstrued by the Patent Office in a manner that would void Hutchins of his ownership rights. The other parties to this action have never disputing Hutchins'

rights of ownership. Currently the Patent Office and the Library of Congress “has it right” in listing Hutchins as owner of each and every one of these properties that have been named in this action. A declaratory judgment would assure that this ownership is maintained in the Patent Office.

Hutchins’ intellectual properties requiring affirmation of ownership are:

“U.S. Patent 5,913,685, U.S. Patent 4,583,524, U.S. Patent Re 34,800, Canadian Patent 1249368, European Patent 01833462 (includes Belgium, Switzerland, Germany, France, United Kingdom, Italy, Luxembourg), also Copyright Registrations No. TXu-210-208 and No. TXu-213-859 and U.S. Trademark Registration No. 1,398,334 for the mark CPR Prompt®.” Verification documents showing Hutchins as owner are included as Exhibit A.

On July 2, 2004 Hutchins filed CA 04-30126-MAP as a patent infringement action as specified by code #830 of the Civil Cover Sheet and the Appendix C, Local Cover Sheet. Also filed was A Commissioner of Patent and Trademarks Form AO 120 “Report on the Filing or Determination of an Action Regarding a Patent or Trademark” that is attached herein as Exhibit A. Form AO 120 states that upon the termination of this action that the judgment be mailed to the Commissioner to allow the Patent Office to record the current owner of the patents and trademarks. It is imperative that Form AO 120 describes Hutchins as owner at the termination of this action.

In the coming week Hutchins will be deposed in Case Number: 04-71028, Parker v. Cardiac Science, Inc., Eastern District of Michigan as per Exhibit B attached. The four law firms involved in Parker v. Cardiac Science, Inc. are calling for testimony from Hutchins because Hutchins has been a very significant person in the CPR prompting industry for the past 20 years. Hutchins’ intellectual properties have been the cornerstone of this industry. Hutchins also shares a cross-license with the Plaintiff William Parker in Case Number: 04-71028.

While the Compliant Corporation has intruded into Civil Action 04-30126-MAP and framed it to their advantage as a contract dispute, it is seen as patent action by outside parties and their legal representatives. It is looked upon as the lynchpin in ongoing patent litigation in the Circuit Court of Appeals, District Court of Northern Ohio and the Eastern District of Michigan. These litigants seeking to sort out this confusion in other venues include Cardiac Science, Zoll, Medtronic, Aristotle and Phillips. Attorneys from four different law offices are schedule to hear Hutchins' testimony in the deposition of October 12, 2006.

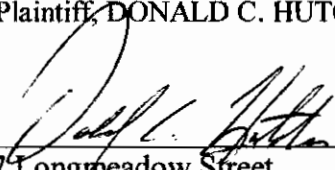
CONCLUSION

The classification of Hutchins as owner of these intellectual properties has never been questioned in this action. The attorneys gathered for Hutchins deposition of October 12th will hear testimony that involves "first to invent," "first to file," office actions, etc. These are the facts that should govern infringement actions. It would be injudicious for these attorneys and their clients to be governed by contract decisions applied in Civil Action: 04-30126-MAP.

For all of the foregoing reasons, the Plaintiff's Motion for a Declaratory Judgment asserting Plaintiff's continued ownership of his intellectual properties should be granted.

The Plaintiff, DONALD C. HUTCHINS, Pro Se

Dated: October 5, 2006



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CERTIFICATE OF SERVICE

I, Donald C. Hutchins, 1047 Longmeadow Street, Longmeadow, Massachusetts 01106, hereby certify that I served a copy of the foregoing on the appropriate party by sending a copy by United Parcel Service to:

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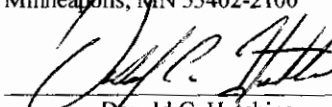
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Dated: 10/5/06


Donald C. Hutchins